

APPEAL NO. 030212
FILED MARCH 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on December 16, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable repetitive trauma injury, with a date of injury of _____; and that the respondent (carrier) is relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001. The claimant appealed the determinations on sufficiency of the evidence grounds. The claimant correctly points out in her appeal that the findings of fact were misnumbered because the number two was used twice. The carrier responded, urging affirmance.

DECISION

Affirmed as reformed.

The claimant claimed that she sustained repetitive trauma injuries while performing her work activities as a sewing machine operator for the employer. The claimant had the burden to prove that she sustained a repetitive trauma injury as defined by Section 401.011(36) and that she gave timely notice of her injury pursuant to Section 409.001(a). Conflicting evidence was presented at the CCH on the disputed issues.

The hearing officer noted that "the Claimant's testimony was not persuasive nor credible to establish that she sustained a repetitive trauma injury. . . ." The hearing officer also noted that "although the Claimant's work may be repetitive in nature, the testimony and documentary evidence were insufficient to support that an injury occurred while performing her job duties." The claimant argued that she does not think enough credit was given to some of the medical records. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We reform the numbering of the hearing officer's Findings of Fact. The Findings of Fact should be numbered 1 through 5.

We affirm the decision and order of the hearing officer as reformed.

The true corporate name of the insurance carrier is **ACE USA/OR** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200
IRVING, TEXAS 75063.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Gary L. Kilgore
Appeals Judge